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Attorney for Joshua Wilson

**MONTANA THIRTEENTH JUDICIAL DISTRICT COURT,
YELLOWSTONE COUNTY**

JOSHUA WILSON,

Plaintiff,

vs.

YELLOWSTONE COUNTY, a political
subdivision of the State of Montana, DOES
I-IV,

Defendants.

Case No. DV 17-0389

Judge INGRID GUSTAFSON

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

120135043

COMES NOW, Plaintiff, Joshua Wilson (hereinafter "Josh"), by and through his counsel of record, D'Alton Law Firm, and for his Complaint against the above-named Defendant, complain and allege as follows:

PARTIES

1. Josh, at all times relevant hereto, resided in the State of Montana, Yellowstone County.

2. Defendant Yellowstone County is a political subdivision of the State of Montana and, at all times relevant hereto, responsible for the operation of the Yellowstone County Detention Facility.

3. Defendants Does were at all time relevant hereto, a resident of the State of Montana, Yellowstone County.

4. The true names and capacities of DOES I-IV are unknown to Josh, who therefore sue said Defendants under these fictitious names. On information and belief, Defendant DOES I-IV, inclusive, (i) directly participated in or assisted in the performance of the wrongful acts and omissions described herein, although the full extent of their involvement is unknown at this time , OR (ii) conspire with the named parties in this case to perform the wrongful acts and omissions described below, although the full extent of their involvement is unknown at this time, OR (iii) acted as principals or agents, actual or ostensible, of other named parties in this case in performing the wrongful acts and omissions described below, although the full extent of their involvement is unknown at this time. Josh thus believes that Defendant DOES I-IV, inclusive, are liable for the damages and other relief sought in this case as participants, co-conspirators, principals or agents, or are otherwise necessary or indispensable parties to adjudication of the issues involved in this case. When the true names and capacities of DOES I-IV, inclusive, have been ascertained, appropriate amendments of this Claim will be filed.

5. Josh is further informed, believes and thereon alleges that at all times herein mentioned all Defendants, including DOES I-IV, inclusive, (i) jointly perpetrated the acts described herein with their Co-Defendants, (ii) were the successors in interest to,

or agents, principals, partners, joint venturers, or co-conspirators of their Co-Defendants in doing the things herein alleged and were acting within the scope and authority or in furtherance of a common scheme or design with the knowledge, permission, consent or ratification of their Co-Defendants in doing the things herein alleged, and therefore, are liable, jointly and severally, for all damages and other relief or remedies sought by Plaintiff in this action.

JURISDICTION AND VENUE

6. The Court has subject matter jurisdiction over this matter.

7. The Court has personal jurisdiction over the parties for the reason the Defendants are located within or live in Yellowstone County, Montana.

8. Venue is proper because the parties are present within the boundaries of Yellowstone County and the acts by Defendants occurred within the boundaries of Yellowstone County.

9. Josh has given administrative notice to Yellowstone County.

FACTS COMMON TO ALL COUNTS

10. On May 15, 2016, while incarcerated in the YCDF, Yellowstone County employee(s) wrongfully beat Josh, causing serious and substantial injury to him.

11. Josh refused to enter a cell that was full of sewer water, feces and urine.

12. The jailer insisted Josh enter the cell that was inundated with feces, sewer water and urine.

13. When Josh refused to entered the cell, he was savagely beaten by the jailer.

14. The same or another jailer(s) put Josh in a chokehold until Josh Wilson passed out.

15. Josh believes the events were recorded on the Detention Facility cameras.

16. Josh received substantial injuries from the beating and the chokehold.

17. Additionally, Josh was forced on a van by Yellowstone County officials to be transported to West Virginia.

18. For over two weeks Josh was subjected to inhumane treatment while Josh was transported across the Country.

19. Josh would not have been subjected to such conditions but for Yellowstone County arresting him on charges that were eventually dismissed.

**COUNT ONE
(Negligence)**

20. All previous paragraphs are incorporated by reference into this Count as if fully set forth herein.

21. The Defendants, and each of them, owed Josh a duty to exercise reasonable care for his well-being and reasonable safety to include reasonable care necessary to protect him from harm.

22. The Defendants, and each of them, were negligent in, among other things, for failing to provide adequate safety, safekeeping and well-being to Josh.

23. The negligence of the Defendants, as described above, resulted in Josh's unnecessary injuries. Moreover, as a result of the Defendants' negligence, they are liable to Josh for all damages.

**COUNT TWO
(Negligence Per Se)**

24. All previous paragraphs are incorporated by reference into this Count as if fully set forth herein.

25. Defendants had a statutory duty pursuant to § 7-32-2121 (7), MCA, to provide for the custody, care, supervision and treatment of inmates.

26. Defendants were negligent as a matter of law in that they failed to provide for the custody, care, supervision and treatment for Josh.

27. Defendants' failure to properly provide for the custody, care, supervision and treatment for Josh caused damages and losses to Josh in an amount to be determined at trial.

**COUNT THREE
(State Constitution Claims)**

28. All previous paragraphs are incorporated by reference into this Count as if fully set forth herein.

29. The Defendants, by their wrongful acts, violated Josh's State Constitution rights which include:

- a. Article II, Section 4, dignity of the human being.
- b. Article II, Section 22, cruel and unusual punishment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against all the Defendants for any or all of the following damages or relief:

- A. For all special and general compensatory damages recoverable to which Josh is entitled to under Montana law.
- B. For exemplary damages for the malicious conduct;

- C. For costs and attorney's fees;
- D. For leave to amend the Complaint to add such additional defendants and allegations as discovery justifies; and
- E. For such other and further relief as the Court deems just and proper.

JURY DEMAND

Josh hereby demands trial by jury on the issues in this action so triable.

RESPECTFULLY SUBMITTED this 17 day of March, 2017.



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